

1 BILL NO. S-82-09- 14

2 SPECIAL ORDINANCE NO. S- 168-82

3 AN ORDINANCE approving Improvement
4 Resolution No. 5934-82, Oxford
5 Neighborhood, Phase VII, with John
6 Dehner, Inc., in connection with
7 the Board of Public Works.

8 BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF
9 FORT WAYNE, INDIANA:

10 SECTION 1. That a certain Contract dated August 25,
11 1982, between the City of Fort Wayne, Indiana, by and through
12 its Mayor and the Board of Public Works and John Dehner, Inc.,
13 for:

14 the construction of curbs and sidewalks where
15 necessary on: Holton Avenue, both sides from
16 Oxford on north to Rudisill on south;
17 Robinwood Drive, both sides from Grier on
18 north to Rudisill on south; Bowser Avenue,
19 both sides from Oxford on north to Rudisill
20 on south; Oliver Street, both sides from
21 Oxford on north to Rudisill on south; Smith
22 Street, both sides from Oxford on north
23 to Rudisill on south; Gaywood Drive, both
24 sides from Oxford on north to Rudisill on
25 south; South Park Drive, both sides from
26 Oxford on north to Rudisill on south; Weisser
27 Park, both sides from Oxford on north to
28 Rudisill on south; Hanna Street, both sides
29 from Oxford on north to Rudisill on south;
30 and Hamilton Avenue, both sides from Hanna
31 east to Oliver;

32 under Board of Public Works Improvement Resolution No. 5934-82,
involving a total cost of One Hundred Seven Thousand Four Hundred
Thirty-Nine and 75/100 Dollars (\$107,439.75), all as more partic-
ularly set forth in said Resolution and Contract, which is on
file in the Office of the Board of Public Works and is by refer-
ence incorporated herein, made a part hereof and is hereby in
all things ratified, confirmed and approved. Two copies of said
Contract are on file in the Office of the City Clerk and made
available for public inspection, according to law.

SECTION 2. That this Ordinance shall be in full force

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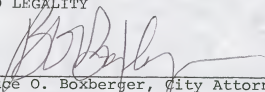
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and effect from and after its passage and any and all necessary approval by the Mayor.



Councilmember

APPROVED AS TO FORM
AND LEGALITY



Bruce O. Boxberger, City Attorney

Read the first time in full and on motion by Stier,
seconded by Bradbury, and duly adopted, read the second time
by title and referred to the Committee Public Works (and the City
Plan Commission for recommendation) and Public Hearing to be held after
due legal notice, at the Council Chambers, City-County Building, Fort Wayne,
Indiana, on _____, the _____ day of
_____, 19____, at _____ o'clock _____.M., E.S.T.

DATE: 9-14-82

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Read the third time in full and on motion by Stier,
seconded by Bradbury, and duly adopted, placed on its
passage. PASSED (LEST) by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT	TO-WIT:
TOTAL VOTES	<u>5</u>	_____	_____	_____	_____
BRADBURY	<u>✓</u>	_____	_____	_____	_____
BURNS	<u>✓</u>	_____	_____	_____	_____
EISBART	<u>✓</u>	_____	_____	_____	_____
GiaQUINTA	<u>✓</u>	_____	_____	_____	_____
SCHMIDT	<u>✓</u>	_____	_____	_____	_____
SCHOMBURG	<u>✓</u>	_____	_____	_____	_____
SCRUGGS	<u>✓</u>	_____	_____	_____	_____
STIER	<u>✓</u>	_____	_____	_____	_____
TALARICO	<u>✓</u>	_____	_____	_____	_____

DATE: 9-28-82

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne,
Indiana, as (ZONING MAP) (GENERAL) (ANNEXATION) (SPECIAL)

(APPROPRIATION) ORDINANCE

(RESOLUTION) NO. 1-168-82

on the 28th day of September, 1982!

ATTEST:

(SEAL)

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Samuel J. Talarico
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on
the 29th day of September, 1982, at the hour of
11:30 o'clock PM.M., E.S.T.

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Approved and signed by me this 4th day of October
1982, at the hour of 10 o'clock A.M., E.S.T.

Win Moses, Jr.
WIN MOSES, JR. - MAYOR

BILL NO. S-82-09-14

REPORT OF THE COMMITTEE ON PUBLIC WORKS

WE, YOUR COMMITTEE ON Public Works TO WHOM WAS REFERRED AN
ORDINANCE approving Improvement Resolution No. 5934-82,
Oxford Neighborhood, Phase VII, with John Dehner, Inc., in
connection with the Board of Public Works

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT
BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE Do PASS.

JAMES S. STIER, CHAIRMAN

BEN A. EISBART, VICE CHAIRMAN

VICTURE L. SCRUGGS

MARK E. GIAQUINTA

DONALD J. SCHMIDT

J. Stier
Ben A. Eisbart
Victure L. Scruggs
Mark E. Giaquinta
Donald J. Schmidt

DATE

5-28-82
CONCURRED IN

Continued

The Contractor hereby expressly agrees to perform all the work in the prosecution of the above described improvement according to the terms and conditions of Improvement Resolution No. 5934-82 the plans, profiles, specifications and the contractor's bid therefor on file in the office of the Department of Public Works of said City, which said resolution, profile, plans and specifications are made a part of this contract as fully and effectually as if copied herein at full length, (copies of which are attached hereto).

It is hereby agreed that no assignment of this contract shall be made without the written consent of the City; said Contractor hereby covenants and agrees that said improvement shall be finally and in all respects completed on or before Oct. 31, 1982 and the Contractor agrees to pay and give to the City, as liquidated damages, the sum of \$25.00 for each and every day after said date, 19__ until said work is finally completed and ready for acceptance by the City. It being also understood that in event of any conflict between this contract and the specifications, that the former shall be considered to contain the intention of the parties hereto.

It is further agreed by and between said parties, that the acceptance of the work provided for in this contract, or the payment therefor, for the whole or a part, shall not constitute a waiver on the part of the City of any of the provisions of the contract, nor shall it release said Contractor, or the sureties upon its bond for the faithful performance thereof, nor shall the acceptance be even prima facie evidence of the performance of any provisions of such contract except to the extent of entitling said Contractor to receive the price therefor. It is further understood that the failure of the City to exercise its right of inspection or rejection of material and work, or the exercise of such right shall not in any sense be considered an acceptance of any part of said work or material.

The Contractor further contracts and agrees that in the prosecution of said work all proper skill and care will be exercised, that said party will properly and fully guard all excavations and dangerous places, and will use all due and proper precautions to prevent injury to any property, person and persons, what or whomsoever. That for and during the period of the making of such improvement, and the period for which the same is to be maintained and kept in repair by the Contractor, the City shall be saved harmless from any and all liability whatsoever growing out of any injury or damage to property or persons because of any neglect or fault of the said Contractor, its agents or employees, in the execution of this contract or any matter connected therewith or related thereto and to pay any judgment with costs which may be obtained against said City, growing out of any such injury or damage.

To each of the conditions and stipulations in this contract, the undersigned bind themselves, their successors and assigns.

IN WITNESS WHEREOF, we the foregoing named parties hereunto set our hands this

day of AUG 25 1982, 19__

ATTEST:

Edward D. Dehner
Corporate Secretary

JOHN DEHNER, INC.

BY: Edward D. Dehner
ITS: President

Contractor, Party of the First Part.

City of Fort Wayne, By and Through:

William H. Adams
Bruce P. Collins

ATTEST:

Sandra Kennedy
Secretary and Clerk

Its Board of Public Works and Mayor.

R. J. Snodgrass
ASSOCIATE CITY ATTORNEY

Tree Removal 30"	Two hundred dollars and no cents per each	200.00
Tree Removal 36"	Two hundred and fifteen dollars and no cents per each	215.00
Tree Removal 42"	Two hundred and fifteen dollars and no cents per each	215.00
Tree Removal 48"	Two hundred and fifteen dollars and no cents per each	215.00
Furnish and Plant New 2" Tree	One hundred and twenty dollars and no cents per each	120.00
Topsoil	Eight dollars and no cents per ton	8.00
Backfill Material (For Backfill Behind Curb)	Four dollars and no cents per ton	4.00
Seeding, Mulch, Fine Grading and Fertilizer	No dollars and forty cents per square yard	0.40
Remove and Replace C.B. Type I-C (New Casting & Cast Iron Trap)	Thirteen hundred dollars and no cents per each	1,300.00
Casting Type C	Two hundred and fifty dollars and no cents per each	250.00
Adjusting Casting to Grade	Fifty dollars and no cents per each	50.00
Asphalt Patching	Two dollars and seventy-five cents per lineal foot	2.75
Total	One hundred and seven thousand, four hundred and thirty-nine dollars and seventy-five cents	\$107,439.75

The Contractor will furnish immediately a certificate from the Industrial Board of the State of Indiana that he has complied with Sections 5, 68, 69 of the Workmen's Compensation Act, approved March 14, 1929, in accordance with Section 14 of the Compensation Act, (Acts 1929, page 545, being I.C. 22-3-2-1 et. seq.).

A copy of General Ordinance No. G-34-78 (as amended) concerning discriminating in employment under municipal contracts is attached and incorporated herein by reference.

PERFORMANCE AND GUARANTEE BOND.

KNOW ALL MEN BY THESE PRESENTS, that we JOHN DEHNER, INC.
as Principal, and the UNITED STATES FIDELITY & GUARANTY CO.
a corporation organized under the laws of the
State of MARYLAND, and duly authorized to transact business in the
State of Indiana, as Surety, are held firmly bound unto the City of Fort Wayne,
Indiana, an Indiana Municipal Corporation in the sum of ONE HUNDRED AND SEVEN
THOUSAND, FOUR HUNDRED AND THIRTY-NINE DOLLARS AND SEVENTY-FIVE CENTS
(\$107,439.75-----), for the payment whereof well and truly to be made,
the Principal and Surety bind themselves, their heirs, executors, administrators,
successors and assigns, jointly and severally, firmly by these presents. The
condition of the above obligation is such that

WHEREAS, the Principal did on the _____ day of AUG 25 1982, 19____,
enter into a contract with the City of Fort Wayne to construct

Improvement Resolution No. 5934-82

curb and sidewalk where needed on:

- (1) Holton Ave. - both sides from Oxford on north to Rudisill on south;
 - (2) Robinwood Dr. - both sides from Grier on north to Rudisill on south;
 - (3) Bowser Ave. - both sides from Oxford on north to Rudisill on south;
 - (4) Oliver St. - both sides from Oxford on north to Rudisill on south;
 - (5) Smith St. - both sides from Oxford on north to Rudisill on south;
 - (6) Gaywood Dr. - both sides from Oxford on north to Rudisill on south;
 - (7) S. Park Dr. - both sides from Oxford on north to Rudisill on south;
 - (8) Weisser Pk. - both sides from Oxford on north to Rudisill on south;
 - (9) Hanna St. - both sides from Oxford on north to Rudisill on south;
 - (10) Hamilton Ave. - both sides from Hanna east to Oliver. (Spot Repair)
- Also known as OXFORD NEIGHBORHOOD, PHASE VII.

at a cost of \$107,439.75----, according to certain plans and specifications
prepared by or approved by the City.

WHEREAS, the grant of authority by City to so construct such improvement
provides:

1. That said improvement shall be completed according to said plans and
specifications, and contractor shall warrant and guarantee all work, mater-
ial, and conditions of the improvement for a period of three (3) years from
the date of final acceptance in writing by the Owner;
2. There shall be filed with the City, within thirty (30) days after comple-
tion, a Completion Affidavit;
3. Said Principal is required to agree to make such adjustments, modifica-
tions, and repairs as required by the City within thirty (30) days after
notice.

WHEREAS, said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or to the work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work or to the specifications.

NOW THEREFORE, if the principal shall faithfully perform all of the terms and conditions required of it by the contract and shall for three (3) years after acceptance of said improvement by City warrant and guarantee said improvement and shall indemnify the City for all loss that City may sustain by reason of the Principal's failure to comply with any of the terms of the authorization, then this obligation shall be void, otherwise it shall remain in full force and effect.

JOHN DEHNER, INC.

(Contractor)

BY:

ITS: President

ATTEST:

Edward L. Dehner

Secretary
(Title)

UNITED STATES FIDELITY & GUARANTY CO.
Surety

*BY:

Samuel Shirley
Authorized Agent
(Attorney-in-Fact)

Samuel Shirley
*If signed by an agent, power of attorney must be attached

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS: that

----- JOHN DEHNER, INC. -----
(Name of Contractor)

----- P.O. Box 11346, Fort Wayne, Indiana 46857 -----
(Address)

a _____, hereinafter called Principal,
(Corporation, Partnership or Individual)

and LIMITED STATES FIDELITY & GUARANTY CO
(Name of Surety)

and duly authorized to transact business in the State of Indiana, hereinafter called Surety, are held and firmly bound unto the City of Fort Wayne, an Indiana Municipal Corporation in the penal sum of ONE HUNDRED AND SEVEN THOUSAND, FOUR HUNDRED AND THIRTY-NINE DOLLARS AND SEVENTY-FIVE CENTS

for the payment whereof well and truly to be made, the Principal and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract with the Owner, dated the _____ day of AUG 25 1982, 19____, for the construction of:

Improvement Resolution No. 5934-82

Curb and sidewalk where needed on:

- (1) Holton Ave. - both sides from Oxford on north to Rudisill on south;
 - (2) Robinwood Dr. - both sides from Grier on north to Rudisill on south;
 - (3) Bowser Ave. - both sides from Oxford on north to Rudisill on south;
 - (4) Oliver St. - both sides from Oxford on north to Rudisill on south;
 - (5) Smith St. - both sides from Oxford on north to Rudisill on south;
 - (6) Gaywood Dr. - both sides from Oxford on north to Rudisill on south;
 - (7) S. Park Dr. - both sides from Oxford on north to Rudisill on south;
 - (8) Weisser Pk. - both sides from Oxford on north to Rudisill on south;
 - (9) Hanna St. - both sides from Oxford on north to Rudisill on south;
 - (10) Hamilton Ave. - both sides from Hanna east to Oliver (Spot Repair).
- Also known as OXFORD NEIGHBORHOOD, PHASE VII.

at a cost of ONE HUNDRED AND SEVEN THOUSAND, FOUR HUNDRED AND THIRTY-NINE DOLLARS AND SEVENTY-FIVE CENTS

(\$107,439.75 -----), all according to Fort Wayne Street Engineering Department plans and specifications.

WHEREAS, said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or to the work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work or to the specifications, and

WHEREAS, no final settlement between the Owner and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

NOW, THEREFORE, if the Principal shall promptly make payment to all persons, firms, subcontractors, and corporations furnishing materials for or performing labor in the prosecution of the work provided for in such contract, and any authorized extension or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment and tools, consumed or used in connection with the construction of such work, and all insurance premiums on said work, and for all labor, performed in such work whether by subcontractor or otherwise, then this obligation shall be void; otherwise to remain in full force and effect.

IN WITNESS WHEREOF, this instrument is executed in 3 counterparts, each one of which shall be deemed an original, this 25 day of AUG 25 1982, 1979.

(SEAL)

ATTEST:

Edward L. Dehner
(Principal) Secretary

JOHN DEHNER, INC.
Principal
BY Donald Dehner
President
(Title)

Witness as to Principal

(Address)

Samuel D. Dehner
Witness as to Surety

(Address)

UNITED STATES FIDELITY & GUARANTY CO.
Surety
BY Samuel D. Dehner
Attorney-in-Fact
(Authorized Agent)

(Address)

NOTE: Date of Bond must not be prior to date of Contract.
If Contractor is Partnership, all partners should execute bond.

GENERAL POWER OF ATTORNEY

No. 91274

Know all Men by these Presents:

That UNITED STATES FIDELITY AND GUARANTY COMPANY, a corporation organized and existing under the laws of the State of Maryland, and having its principal office at the City of Baltimore, in the State of Maryland, does hereby constitute and appoint Arthur C. Frericks, Donald T. Belbutowski, Gerald A. Dahle and Leonard Shirley

of the City of Fort Wayne, State of Indiana
its true and lawful attorney in and for the State of Indiana

for the following purposes, to wit:

To sign its name as surety to, and to execute, seal and acknowledge any and all bonds, and to respectively do and perform any and all acts and things set forth in the resolution of the Board of Directors of the said UNITED STATES FIDELITY AND GUARANTY COMPANY, a certified copy of which is hereto annexed and made a part of this Power of Attorney; and the said UNITED STATES FIDELITY AND GUARANTY COMPANY, through us, its Board of Directors, hereby ratifies and confirms all and whatsoever ~~that~~ anyone of the said Arthur C. Frericks and the said Donald T. Belbutowski and the said Gerald A. Dahle and the said Leonard Shirley

may lawfully do in the premises by virtue of these presents.

In Witness Whereof, the said UNITED STATES FIDELITY AND GUARANTY COMPANY has caused this instrument to be sealed with its corporate seal, duly attested by the signatures of its Vice-President and Assistant Secretary, this 5th day of December, A. D. 19 80

UNITED STATES FIDELITY AND GUARANTY COMPANY.

(Signed) By James D. Rector
Vice-President.

(SEAL) (Signed) James T. Beresheim
Assistant Secretary.

STATE OF MARYLAND, }
BALTIMORE CITY, }

On this 5th day of December, A. D. 19 80 before me personally came James D. Rector, Vice-President of the UNITED STATES FIDELITY AND GUARANTY COMPANY and James T. Beresheim, Assistant Secretary of said Company, with both of whom I am personally acquainted, who being by me severally duly sworn, said that they, the said James D. Rector and James T. Beresheim were respectively the Vice-President and the Assistant Secretary of the said UNITED STATES FIDELITY AND GUARANTY COMPANY, the corporation described in and which executed the foregoing Power of Attorney; that they each knew the seal of said corporation; that the seal affixed to said Power of Attorney was such corporate seal, that it was so fixed by order of the Board of Directors of said corporation, and that they signed their names thereto by like order as Vice-President and Assistant Secretary, respectively, of the Company.

My commission expires the first day in July, A. D. 19 82...

(SEAL) (Signed) Margaret M. Hurst
Notary Public.

STATE OF MARYLAND, }
BALTIMORE CITY, }

I, William Allen, Clerk of the Superior Court of Baltimore City, which Court is a Court of Record, and has a seal, do hereby certify that Margaret M. Hurst, Esquire, before whom the annexed affidavits were made, and who has thereto subscribed his name, was at the time of so doing a Notary Public of the State of Maryland, in and for the City of Baltimore, duly commissioned and sworn and authorized by law to administer oaths and take acknowledgments, or proof of deeds to be recorded therein. I further certify that I am acquainted with the handwriting of the said Notary, and verily believe the signature to be his genuine signature.

In Testimony Whereof, I hereto set my hand and affix the seal of the Superior Court of Baltimore City, the same being a Court of Record, this 5th day of December, A. D. 19 80

(SEAL) (Signed) William Allen

Clerk of the Superior Court of Baltimore City.

COPY OF RESOLUTION

That *Whereas*, it is necessary for the effectual transaction of business that this Company appoint agents and attorneys with power and authority to act for it and in its name in States other than Maryland, and in the Territories of the United States and in the Provinces of the Dominion of Canada and in the Colony of Newfoundland.

Therefore, be it Resolved, that this Company do, and it hereby does, authorize and empower its President or either of its Vice-Presidents in conjunction with its Secretary or one of its Assistant Secretaries, under its corporate seal, to appoint any person or persons as attorney or attorneys-in-fact, or agent or agents of said Company, in its name and as its act, to execute and deliver any and all contracts guaranteeing the fidelity of persons holding positions of public or private trust, guaranteeing the performances of contracts other than insurance policies and executing or guaranteeing bonds and undertakings, required or permitted in all actions or proceedings, or by law allowed, and

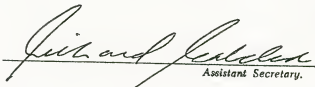
Also, in its name and as its attorney or attorneys-in-fact, or agent or agents to execute and guarantee the conditions of any and all bonds, recognizances, obligations, stipulations, undertakings or anything in the nature of either of the same, which are or may be by law, municipal or otherwise, or by any Statute of the United States or of any State or Territory of the United States or of the Provinces of the Dominion of Canada or of the Colony of Newfoundland, or by the rules, regulations, orders, customs, practice or discretion of any board, body, organization, office or ~~office~~, local, municipal or otherwise, be allowed, required or permitted to be executed, made, taken, given, tendered, accepted, filed or recorded for the security or protection of, by or for any person or persons, corporation, body, office, interest, municipality or other association or organization whatsoever, in any and all capacities whatsoever, conditioned for the doing or not doing of anything or any conditions which may be provided for in any such bond, recognizance, obligation, stipulation, or undertaking, or anything in the nature of either of the same.

I, **Richard Calder**, an Assistant Secretary of the UNITED STATES FIDELITY AND GUARANTY COMPANY, do hereby certify that the foregoing is a full, true and correct copy of the original power of attorney given by said Company to **Arthur C. Frericks, Donald T. Belbutowski, Gerald A. Dahle and Leonard Shirley**

of **Fort Wayne, Indiana**, authorizing and empowering them to sign bonds as therein set forth, which power of attorney has never been revoked and is still in full force and effect.

And I do further certify that said Power of Attorney was given in pursuance of a resolution adopted at a regular meeting of the Board of Directors of said Company, duly called and held at the office of the Company in the City of Baltimore, on the 11th day of July, 1910, at which meeting a quorum of the Board of Directors was present, and that the foregoing is a true and correct copy of said resolution, and the whole thereof as recorded in the minutes of said meeting.

In Testimony Whereof, I have hereunto set my hand and the seal of the UNITED STATES FIDELITY AND GUARANTY COMPANY on 8/16/82
(Date)


Assistant Secretary.

TITLE OF ORDINANCE Resolution 5934-82, Oxford Neighborhood, Phase VII

DEPARTMENT REQUESTING ORDINANCE Board of Public Works

82-09-14

SYNOPSIS OF ORDINANCE Construction of curbs and sidewalks where needed on:

Holton Ave., both sides from Oxford on north to Rudisill on south; Robinwood Dr., both sides from Grier on north to Rudisill on south; Bowser Ave, both sides from Oxford on north to Rudisill on south; Oliver St., both sides from Oxford on north to Rudisill on south; Smith St. both sides from Oxford on north to Rudisill on south; Gaywood Drive, both sides from Oxford on north to Rudisill on south; South Park Dr., both sides from Oxford on north to Rudisill on south; Weisser Park both sides from Oxford on north to Rudisill on south; Hanna St. both sides from Oxford on north to Rudisill on south; Hamilton Ave., both sides from Hanna east to Oliver.

Contract awarded to John Dehner, Inc.

Prior approval received August 10, 1982

EFFECT OF PASSAGE improvement of Oxford Neighborhood

EFFECT OF NON-PASSAGE

MONEY INVOLVED (DIRECT COSTS, EXPENDITURE, SAVINGS) \$107,439.75

ASSIGNED TO COMMITTEE